

## Message Text

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ACTION EUR-12

INFO OCT-01 IO-13 ISO-00 CIAE-00 PM-04 H-01 INR-07  
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15  
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FM USMISSION NATO  
TO SECSTATE WASHDC 2523  
SECDEF WASHDC  
INFO ALL NATO CAPITALS  
USMISSION GENEVA  
USMISSION USUN NEW YORK

C O N F I D E N T I A L USNATO 1814

E.O. 11652: GDS  
TAGS: NATO, PFOR, PARM, ICRC  
SUBJECT: NATO CONSIDERATION OF DRAFT PROTOCOL ON INTERNATIONAL  
LAW IN ARMED CONFLICT

REF: (A) GENEVA 2052 (DTG 171800Z MAR 77) (NOTAL),  
(B) GENEVA 2092 (DTG 181641Z MAR 77) (NOTAL),  
(C) USNATO 1139 (DTG 021845Z MAR 77)

1. AT MARCH 28 MEETING, POLADS AGREED AD REFERENDUM TO A  
MANDATE FOR THE NATO MILITARY COMMITTEE STUDY OF THE DRAFT  
PROTOCOL. (TEXT IN 6 BELOW). THIS TEXT, A  
SLIGHTLY MODIFIED VERSION OF THAT CONTAINED IN PARA 4  
(REF C), WAS CIRCULATED BY THE UK REP WITH THE EXPLANATION  
THAT IT HAD BEEN DISCUSSED AMONG ALLIED REPS AT THE  
GENEVA CONFERENCE. FRG REP OBJECTED TO DELETION OF WORD  
"SECURITY" BEFORE THE PHRASE "IMPLICATIONS FRO THE  
ALLIANCE," BUT EVENTUALLY ACCEPTED THIS DELETION BECAUSE  
THE NETHERLANDS REP INSISTED ON IT AND THE INTERNATIONAL  
MILITARY STAFF REP EXPLAINED THAT THE ABSENCE OF THE  
WORD "SECURITY" WOULD NOT AFFECT THE MILITARY COMMITTEE'S  
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STUDY.

2. FRG AND A FEW OTHER REPS ARGUED IN FAVOR OF  
SUGGESTING AUGUST 31 AS A TARGET DATE FOR COMPLETION  
OF THE STUDY. IMS REP SAID HE BELIEVED THE MC COULD  
COMPLETE THE STUDY BY THAT DATE. (COMMENT: WE WOULD APPRECIATE  
GUIDANCE ON ACCEPTABILITY OF THIS POINT IN VIEW OF  
EXPECTATION EXPRESSED IN PARA 1 (REF A), THAT  
COMPLETION DATE FOR THE MC STUDY WOULD BE SUBSTANTIALLY LATER  
THAN AUGUST 31. END COMMENT).

3. ON THE BASIS OF THEIR REPORTS FROM GENEVA AND INSTRUCTIONS, POLADS AGREED THAT THE STUDY WOULD NOT BEGIN UNTIL DELEGATIONS IN GENEVA HAVE PRODUCED INTERPRETATIONS OF THE RELEVANT ARTICLES TO SERVE AS A BASIS FOR THE MC'S WORK NOT UNTIL THE CONFERENCE HAS ENDED.

4. COMMENT: POLADS, INCLUDING THE FRG REP, SEEMED SATISFIED WITH THIS OUTCOME. IN LIGHT OF OUR EARLIER CONCERNS ABOUT FRG SENSITIVITIES ON THIS MATTER, WE APPRECIATE THE SUCCESSFUL DIDACTIC EFFORTS OF US REPS AT GENEVA THAT APPEAR TO HAVE SATISFIED THE FRG.

5. ACTION REQUESTED: AUTHORIZATION BY APRIL 5 TO ACCEPT THE DRAFT MANDATE.

6. BEGIN TEXT OF DRAFT MANDATE:  
IMPLICATIONS FOR THE ALLIANCE OF  
PROVISIONS OF THE FIRST ADDITIONAL PROTOCOL TO THE GENEVA  
CONFERENCE.

1. IN VIEW OF THE GROWING CONCERN IN THE WORLD COMMUNITY ABOUT WARS AND ARMED CONFLICTS AND THE RESULTING INNOCENT VICTIMS THE ALLIED COUNTRIES HAVE SUPPORTED THE EFFORTS OF THE ICRC TO REAFFIRM AND DEVELOP THE INTERNATIONAL LAW OF WAR.  
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2. IN CONSIDERATION OF THE NEW PROVISIONS ADOPTED IN THE COMMITTEES OF THE "DIPLOMATIC CONFERENCE ON REAFFIRMATION AND DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICTS" IN 1974-1976 IT SEEMS ADVISABLE TO ALLIED COUNTRIES TO EXAMINE THE NEW LAW OF WARFARE AND ITS COMPATIBILITY WITH THE DEFENCE INTERESTS OF THE ALLIANCE.

3. IN THIS CONNECTION, THE MILITARY COMMITTEE IS REQUESTED TO EVALUATE, TAKING INTO ACCOUNT THE VIEWS OF MILITARY AND LEGAL EXPERTS WHO HAVE PARTICIPATED IN THE DIPLOMATIC CONFERENCE, POSSIBLE IMPLICATIONS FOR THE ALLIANCE, INCLUDING THE EFFECTS ON FUTURE DEFENCE CAPABILITY, OF THE PROVISIONS OF ARTICLES 33-53 OF ADDITIONAL PROTOCOL I TO THE GENEVA CONVENTIONS.

4. A REPORT BY THE MILITARY COMMITTEE WHICH SHOULD TAKE FULL ACCOUNT OF THE FINAL FORM OF THE TEXT OF THE PROTOCOL AS ADOPTED BY THE CONFERENCE IS REQUESTED BY AUGUST 31, 1977 END TEXT.STRAUSZ-HUPE'

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<< END OF DOCUMENT >>

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**Reference:** (A) GENEVA 2052 (DTG 171800Z MAR 77) (NOTAL), (B) GENEVA 2092 (DTG 181641Z MAR 77) (NOTAL), (C) USNATO 1139 (DTG 021845Z MAR 77)  
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